

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CANDY KELLY, an individual, and
DAVID MICHAEL KELLY, an individual,

Plaintiffs,

-v-

EVERETT R. ECHOLS, II, M.D. an individual,
TOM A. CHAPMAN, an individual, EZ RX, an
unknown business entity, QUALITEST
PHARMACEUTICALS INC., a domestic
corporation, RX MEDICAL SERVICES
CORPORATION, FRANK CARLOS
HERNANDEZ AND AMANDA HERNANDEZ,
and DOES 1 through 10, inclusive,

Defendants.

CASE NO. 1:05-CV-00118 AWI DLB

**STIPULATION AND ORDER TO
SET ASIDE DEFAULTS OF
DEFENDANTS FRANK CARLOS
HERNANDEZ AND AMADA
HERNANDEZ, AND TO GRANT
LEAVE TO FILE SECOND
AMENDED COMPLAINT**

The following stipulation has been filed in the above entitled action:

Plaintiffs Candy Kelly and David Michael Kelly, and defendants EZ RX, a Florida corporation, Frank Carlos Hernandez, an individual, and Amada Hernandez (sued herein as Amanda Hernandez), an individual, by and through their respective attorneys, hereby stipulate as follows:

1. The Clerk's Entries of Default entered on October 24, 2005, as to defendants Frank Carlos Hernandez and Amada Hernandez (Document Numbers 40 and 41) shall be set aside;

2. As to defendants Frank Carlos Hernandez and Amada Hernandez only, the Application for Default Judgment filed by plaintiff Candy Kelly, and set for hearing on May 4, 2007, at 9:15 a.m. in Courtroom 7 is rendered moot by this stipulation, and plaintiff Candy Kelly

hereby withdraws her application for default judgment as to defendants Frank Carlos Hernandez and Amada Hernandez;

3. Plaintiffs shall be granted leave to file their second amended complaint. Service of the summons and second amended complaint, along with all other required papers, on defendants EZ RX, Frank Carlos Hernandez, and Amada Hernandez shall be accomplished within ten days of the entry of the order on this stipulation. Service on defendants EZ RX, Frank Carlos Hernandez, and Amada Hernandez may be made by facsimile transmission and mailing by first class mail on defendants' attorneys. Defendants EZ RX, Frank Carlos Hernandez, and Amada Hernandez shall file their answers to the second amended complaint within twenty days of the date of service.

DATED: April 26, 2007.

/s/

LAURA K. KAIL

Attorneys for Plaintiffs Candy Kelly and David Michael Kelly

DATED: April 25, 2007.

DIETRICH, GLASRUD, MALLEK & AUNE

BY: /s/

DONALD H. GLASRUD

BRUCE A. OWDOM

Attorneys for EZ RX, a Florida corporation,
Frank Carlos Hernandez and Amada Hernandez

ORDER

IT IS SO ORDERED.

Dated: May 3, 2007

/s/ Anthony W. Ishii

UNITED STATES DISTRICT JUDGE